

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

Decision mailed: 12/17/10
Civil Service Commission *CS*

SUFFOLK, SS.

One Ashburton Place - Room 503
Boston, MA 02108
(617) 727-2293

PAUL COKELY,
Appellant
v.
CITY OF CAMBRIDGE,
Respondent

CASE NO: D1-10-62

Appellant:

Paul Cokely, Pro Se
[REDACTED]
[REDACTED]

Appointing Authority
Attorney:

Phillip Collins
Collins, Loughran & Peloquin, P.C.
320 Norwood Park South
Norwood, MA 02062

Commissioner:

Paul M. Stein

DECISION ON RENEWED MOTION TO DISMISS

The Appellant, Paul T. Cokely, acting pursuant to M.G.L.c.31, §41-§43, appealed to the Civil Service Commission (Commission) from a decision of the City of Cambridge School Department, Appointing Authority (Cambridge), terminating Mr. Cokely's employment as a Senior Custodian. On October 14, 2010, Cambridge moved to dismiss the appeal on the grounds that the Appellant had failed to comply with the pre-hearing representations that he would be retaining counsel and provide discovery. The motion was denied, without prejudice, by Procedural Order dated October 18, 2010, which order

continued the date of the full hearing (for the second time), until November 23, 2101, and mandated:

The Appellant shall provide to the Attorney for the City of Cambridge, not later than November 1, 2010 the following information: (a) a list of the names of all witnesses that the Appellant reasonably expects he may call to testify in his case in chief; (b) the name, address, dates of attendance and any certificate of satisfactory completion of any substance abuse rehab program the Appellant has attended since his discharge; and (c) a copy of all documents that the Appellant reasonably expects he may offer in evidence at the hearing of his appeal. The Appellant's failure to provide the information above as required shall be considered grounds to preclude the Appellant from introducing evidence through any witness or document not so provided or from claiming attendance at any substance abuse rehab program not so identified.


On November 3, 2010, Cambridge counsel filed a Renewed Motion to Dismiss, which reported, among other things, that as of that date, Mr. Cokely had not attempted to contact or communicate with him or Cambridge. Counsel reported that he called Mr. Cokely who told counsel that "I have a lot of things going on" and (with reference to the Commission's October 18, 2010 Procedural Order that he said he received "about three day" earlier): "I haven't opened the envelope". When counsel queried how that was possible when mail from Boston to Needham (Mr. Cokely's residence) usually takes one day, he reportedly said: "Well, whatever" and ended the conversation.

The Commission notified the parties that Mr. Cokely would have until November 17, 2010 to file any opposition to the Renewed Motion To Dismiss. The Commission received neither an opposition nor any contact from the Appellant.

On November 17, 2010, Cambridge filed with the Commission a Request for Ruling on Unopposed Motion to Dismiss. The parties were notified that this request was taken under advisement, and the Commission now grants the request and dismisses this appeal pursuant to 801 CMR 1.00(7) (g).

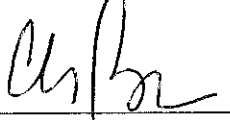
The record presented to the Commission, which Mr. Cokely has not disputed, of the Appellant's lack of due diligence in prosecuting this appeal in accordance with the Commission's rules and prior orders infers a plain disinterest in pursuing his claims in a timely and proper manner. Mr. Cokely's inattention to his appeal, despite the numerous opportunities provided to him, has caused Cambridge substantial cost, inconvenience and unjustified delay, and has required it, as well as the Commission, to devote considerable resources in unproductive efforts to procure the Appellant's compliance with the bare minimum level of compliance necessary to ensure a prompt, fair and orderly hearing of his appeal by the Commission. The Commission concludes that further flouting of the Commission's rules and orders cannot be tolerated and additional effort or delay of this matter is not now warranted.

Accordingly, for the reasons stated above, the Renewed Motion to Dismiss is hereby granted, and the appeal of the Appellant, Paul T. Cokely, is hereby *dismissed*.

Civil Service Commission

Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell & Stein, Commissioners) on. December 16, 2010.

A True Record. Attest:



Commissioner

Commissioner McDowell was
absent on December 16, 2010.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Paul Cokely (Appellant)

Phillip Collins, Esq. (Appointing Authority)